

court, and is, and at all times hereinafter mentioned, was engaged in the operation of a residential care nursing home.

III

Defendant is and, at all times hereinafter mentioned, was engaged in commerce or in an industry or activity affecting commerce and employed 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year and is an employer within the meaning of section 101(4) of the Act.

IV

Since July 2015, Defendant, an employer subject to the provisions of the Act, violated the provisions of section 105(a)(1) of the Act, in that it interfered with, restrained, or denied employees the exercise of rights provided under the Act when it acquired knowledge that employees' leave may have been for FMLA-qualifying reasons and failed to notify those employees accordingly. Defendant further failed to provide employees with FMLA notices of eligibility and rights and responsibilities. Because employees were not afforded the opportunity to take job-protected FMLA leave, they received attendance points and discipline for absences that were FMLA-qualifying.

V

All employees affected by the violations alleged in Paragraph IV herein were employed by Defendant for at least 12 months and had performed at least 1,250 hours of service with Defendant during the previous twelve-month period. At the time of said requests, each employee had not taken 12 weeks of leave in a 12-month period and was entitled to leave as provided under section 102(a) of the Act.

VI

WHEREFORE, cause having been shown, Plaintiff prays for judgment against Defendant as follows:

- A. For an Order, pursuant to section 107(d), permanently enjoining and restraining Defendant, their officers, agents, servants, employees, successors-in-interest, and those persons in active concert or participation with Defendant, who receive actual notice of such judgment, from prospectively violating the provisions of section 105 of the Act; and
- B. For an Order granting such other further legal or equitable relief as may be deemed necessary and appropriate.

Respectfully submitted,

Local Counsel:

DANIEL L. LEMISCH
Acting United States Attorney

/s/ Peter A. Caplan
PETER A. CAPLAN
Assistant United States Attorney
(P30643)

United States Attorneys Office
211 W. Fort Street, Suite 2001
Detroit, MI 48226
Telephone: (313) 226-9784
Fax: (313) 226-2311

NICHOLAS C. GEALE
Acting Solicitor of Labor

CHRISTINE Z. HERI
Regional Solicitor

/s/ Catherine L. Seidelman
CATHERINE L. SEIDELMAN
6306193 (IL)

Attorneys for R. Alexander
Acosta, Secretary of Labor, United
States Department of Labor,
Plaintiff

U.S. Department of Labor
Office of the Solicitor
230 S. Dearborn St., Rm. 844
Chicago, IL 60604
Telephone: (312) 353-4995
Fax: (312) 353-5698
Email: seidelman.catherine@dol.gov

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **COMPLAINT** has been served on the below-named individual this 17th day of July, 2017, by sending said copy by certified mail, with a courtesy copy by email, to:

Jennifer L. Watson, Esq.
Associate Corporate Counsel
Office of Corporate Legal Counsel
Consulate Health Care
5102 West Laurel Street, Suite 700
Tampa, FL 33607
Jennifer.l.watson@consulatemgt.com

/s/ Catherine L. Seidelman
CATHERINE L. SEIDELMAN
Trial Attorney

United States Department of Labor
One of the Attorneys for
Complainant